

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.,
Petitioner,

v.

NOVO NORDISK A/S,
Patent Owner.

IPR2023-00724
Patent 10,335,462 B2

Before JOHN G. NEW, SUSAN L. C. MITCHELL, and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

MITCHELL, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

On December 15, 2024, Patent Owner contacted the Board by email, requesting an increase to the word count limits for its Patent Owner Response by 4,000 words, the Petitioner's Reply by 2,000 words, and Patent Owner's Sur-reply by 2,000 words. Ex. 3003. Patent Owner stated that "[t]he increase in word count is being sought to address the arguments Patent Owner expects to include in its Patent Owner Response, including (1) swearing behind certain of Petitioner's asserted references and (2) object indicia of non-obviousness." *Id.* Patent Owner indicated that Petitioner agrees with Patent Owner's request for an increase in word counts for the three briefs.

On Tuesday, December 19, 2023, the Board held a conference call with the parties for which Judges Mitchell, Pollock, and New were present, and the parties were represented by their respective counsel. The parties did not engage a court reporter. Patent Owner explained the additional word counts for the three briefs were needed to address fully two issues not previously addressed in the proceeding, swearing behind asserted references and extensive objective indicia of non-obviousness for the claimed subject matter of U.S. Patent No. 10,335,462 B2. *See* Pet. 2 (stating claimed "dosing regimen appears on the label for PO's FDA-approved, blockbuster diabetes treatment Ozempic, which generated nearly \$3 billion in 2021 sales and is in such high demand PO cannot produce enough to satisfy the market").

Having duly considered the matter, we agree with the parties that the additional word counts for the three briefs are in the interests of justice. *See* 37 C.F.R. 42.24(a)(2). Therefore, we *grant* Patent Owner's request for such additional word counts.

ORDER

Accordingly, it is

ORDERED that Patent Owner's request to increase the word count limit for its Patent Owner Response by 4,000 words is *granted*;

FURTHER ORDERED that the word count limits for Petitioner's Reply and Patent Owner's Sur-reply are increased by 2,000 words.

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